

BEFORE THE

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Federal Communications Commission

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WASHINGTON, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Amendment of Section 76.51
of the Commission's Rules to
Include Goldsboro, North
Carolina in the Raleigh-Durham,
North Carolina, Television Market

MM Docket No. 93-212

To: Chief, Mass Media Bureau

COMMENTS OF CAPITOL BROADCASTING COMPANY

Capitol Broadcasting Company, licensee of Station WRAL-TV, Raleigh, North Carolina ("WRAL-TV"), and Delta Broadcasting, Inc., licensee of Station WKFT-TV, Fayetteville, North Carolina ("WKFT-TV"), hereby submit their comments in response to the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding,¹ issued in response to a Petition for Rulemaking filed by Group H Broadcasting Corporation ("Group H"), licensee of television station WYED(TV), Channel 17 (independent), Goldsboro, North Carolina.

Introduction

On March 9, 1993, Group H filed a Petition for Rulemaking to amend Section 76.51(b)(73) of the Commission's Rules, 47 C.F.R. §76.51(b)(73), to change the designation of the "Raleigh-Durham, North Carolina" major television market to "Raleigh-Durham-Goldsboro, North Carolina." Group H contends that adoption of

¹Notice of Proposed Rulemaking, MM Docket 93-212, DA 93-824 (July 15, 1993), ("NPRM").

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the proposed market redesignation will facilitate equal competition between the stations and provide the subscribers with access to all the stations in the market. However, Group H fails to demonstrate (1) that WYED, the one station licensed to Goldsboro, is substantially integrated into the Raleigh-Durham market, and (2) that it meets all four prongs of the test used by the Commission to evaluate market hyphenation proposals. See, e.g., NPRM, supra, Major Television Markets Orlando-Daytona Beach, Melbourne, and Cocoa, Florida, 57 RR 2d 585 (1985) ("Orlando-Daytona Beach"). Accordingly, the Commission should not add Goldsboro to the Raleigh-Durham hyphenated market.

GOLDSBORO AND RALEIGH-DURHAM ARE NOT PART
OF THE SAME MARKET

The core issue in evaluating market hyphenation proposals is whether the communities in question are part of the same television market. Group H has failed to demonstrate that Goldsboro is substantially integrated into the Raleigh-Durham television market.

A major factor in the evaluation of hyphenation proposals is whether all of the stations in the proposed hyphenated market rely on each of the hyphenated communities as a common basis of economic support. See Television Muscle Shoals, 48 RR 2d 1191 (1980), recon. denied, 87 FCC 2d 507 (1981). Group H does not, and cannot, show that the stations in Raleigh-Durham rely on Goldsboro for economic support. For example, WRAL is a major network affiliate (CBS) licensed to Raleigh, yet only one

Goldsboro business purchases advertising time on this station. See Declaration of Fred Barber (Exhibit 1). WRAL believes that all the other stations licensed to Raleigh-Durham also receive little or no economic support from Goldsboro. While the one station in Goldsboro clearly seeks economic support from the Raleigh-Durham community, this one-way desire does not amount to a mutually dependent market that forms the basis of a hyphenated market.²

The same lack of mutuality that characterizes the economic relationship between Goldsboro and the Raleigh-Durham television market is also present in viewership, and accordingly, cable carriage. While WYED has been designated as "significantly viewed" in Raleigh and unincorporated parts of Wake County, it does not have such status in Durham or any other portion of the Raleigh-Durham ADI. Similarly, Group H presents no evidence that it is widely viewed over the air in the Raleigh-Durham market.³ As a result, any lack of cable carriage of WYED may be due to the lack of viewership interest, not to the lack of hyphenation.

Lastly, the Commission has recently said that, in evaluating requests for market hyphenation, it will "expect to receive evidence that demonstrates commonality between the proposed community to be added to a market designation and the community

²While WRAL is carried on the cable system in Goldsboro, the purpose of this carriage is not to seek advertising support in Goldsboro.

³Its mere presence in the Raleigh-Durham ADI provides no basis for hyphenation. Orlando-Daytona Beach, 57 RR 2d at 561.

as a whole." Broadcast Signal Carriage Issues, Report and Order, 72 RR 2d 204, 223 (1993). Group H did not even attempt to demonstrate that there is any cultural, social, economic, demographic or other particular commonality between Goldsboro and Raleigh-Durham. Group H made no showing that it presents any news or public affairs programming specifically directed at the Raleigh-Durham community, or that Raleigh-Durham stations produce such programming directed towards the specific needs of Goldsboro.

In sum, while WYED's signal may overlap those of the Raleigh-Durham stations, neither Goldsboro nor station WYED are such an integral part of the Raleigh-Durham television market as to require hyphenation.

**THE PROPOSED REDESIGNATION DOES NOT MEET
THE COMMISSION'S TEST FOR MARKET HYPHENATION**

The Commission has repeatedly stated that in evaluating market hyphenation proposals, it will consider four factors: (1) the distance between the existing designated communities and the community proposed to be added to the designation; (2) whether cable carriage, if afforded to the subject station, would extend to areas beyond its Grade B signal coverage area; (3) the presence of a clear showing of a particularized need by the station requesting the change of market designation; and (4) an indication of benefit to the public from the proposed change.

See, e.g., NPRM at 1.

The Goldsboro hyphenation proposal does not meet this test. Take, for example, the third factor, requiring a showing of particularized need to justify the proposed market redesignation. Group H's petition was clearly driven by the alleged need to obtain "local station" status for copyright purposes for WYED throughout the Raleigh-Durham market. Regardless of WYED's need for such status, it is not clear that the hyphenation process is necessary to obtain that status. For cable systems within its 35-mile "specified zone", it is already "local". For stations outside of that zone, it need only petition for significantly viewed status, something it has already done in Raleigh. While Group H argued that commissioning special significantly viewed studies imposes a substantial financial burden on the station (Petition at 6), there is no specific documented evidence in the record regarding the expense associated with such studies, or regarding the nature of Group H's finances and the burden that any expense would place on them.

Conclusion

WYED(TV) is not substantially integrated into the Raleigh-Durham television market. The Raleigh-Durham stations do not rely on Goldsboro for a substantial part of their revenues. The same lack of mutuality that characterizes the economic relationship between Goldsboro and the Raleigh-Durham television market is also present in viewership, and accordingly, cable carriage. Furthermore, the proposal to add Goldsboro does not meet the four-part test used by the Commission to evaluate

hyphenation proposals. Specifically, there is no evidence of particularized need for hyphenation in the Raleigh-Durham market. Therefore, the Commission should not amend Section 76.51 of its Rules to add Goldsboro to the Raleigh-Durham television market.

Respectfully submitted,

DELTA BROADCASTING, INC.

CAPITOL BROADCASTING COMPANY

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August 23, 1993

EXHIBIT 1

DECLARATION OF FRED BARBER

I, Fred Barber, hereby declare, under penalty of perjury, as follows:

1. I am the General Manager of Station WRAL-TV, Raleigh, North Carolina.
2. I have read the attached Comments of Capitol Broadcasting Company and the facts asserted therein regarding the Raleigh-Durham market are true to the best of my knowledge and belief.
3. Only one Goldsboro business purchases commercial time on WRAL-TV.
4. To the best of my knowledge, Goldsboro businesses do not purchase substantial amounts of commercial time on other stations in the Raleigh-Durham hyphenated market.



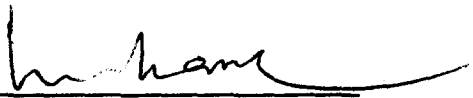
Fred Barber
General Manager
Station WRAL-TV

Dated: 8/23/93

CERTIFICATE OF SERVICE

I, Inder M. Kashyap, an employee of the law firm of Fletcher, Heald & Hildreth do hereby certify that a true copy of the foregoing "Comments of Capitol Broadcasting Company" was sent this 23rd day of August, 1993, by first-class United States mail, postage prepaid, to the following:

Mr. George Beasley
President
Group H Broadcasting Corp.
3033 Riviera Drive
Suite 200
Naples, Florida 33940



Inder M. Kashyap